Remarks

Applicant respectfully requests reconsideration of the rejection of the claims in view of the remarks set forth below. Claims 1, 3-14 and 16-20 remain in the application. Claims 1, 8 and 14 are amended. Claim 2 and 15 were previously canceled. Claims 3-7 and 16-20 were previously presented. Claims 9-13 are unchanged.

35 U.S.C. §103

Claims 1, 3-14 and 16-20 stand rejected under 35 U.S.C 103(a) as being unpatentable over Stoel et al (U.S. 5,905,942) in view of Hendricks et al (U.S. 7,207,055). Under U.S.C. § 103, the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to be obvious in light of the teachings of the references (MPEP § 706.02(j)).

Amended claim 1 recites, inter alia, a "system for providing data in a multiple dwelling facility, the system comprising...**a headend unit that receives a data stream from a program provider via a content delivery medium,** the data stream comprising a plurality of programs...and a multiple dwelling unit network that is adapted to receive at least a portion of the data stream from the headend unit and provide at least a subset of the plurality of programs to individual users in the multiple dwelling facility...**wherein the headend unit is adapted to offer at least one of the plurality of programs** to individual users in the multiple dwelling facility **either at a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system.**" (Emphasis added). Applicants respectfully submit that no new subject matter is being added by the amendment to claim 1. Support for the amendment can be found throughout the application and more specifically in the specification on page 6, lines 20 to 31.

As noted on page 3 of the Office Action: "Stoel fails to explicitly disclose that a headend unit is adapted to offer programs to users at a first price set by a program provider or at a second price set by the headend unit" Applicants respectfully propose that Stoel also fails to disclose the "headend unit that receives a data stream from a program provider via a content delivery medium...wherein the headend unit is adapted to offer at least one of the plurality of programs... either at a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system" elements of amended claim 1.

Hendricks appears to be directed towards bandwidth allocation for a television program delivery system. (Abstract; col 6, lines 1-10). Although Hendricks appears to consider the adjustment of price categories (col. 29, lines 20-31), Hendricks does not appear to disclose the "headend unit that receives a data stream from a program provider via a content delivery medium...wherein the headend unit is adapted to offer at least one of the plurality of programs... either at a first price set by the program provider **where the at least one program is provided using a first conditional access system** or at a second price set by the headend unit **where the at least one program is provided using the first conditional access system and a second conditional access system**" elements of amended claim 1. As a result, amended claim 1 contains elements not taught or suggested by Hendricks.

Accordingly, neither Stoel or Hendricks, either alone or combined, teach the "headend unit that receives a data stream from a program provider via a content delivery medium...wherein the headend unit is adapted to offer at least one of the plurality of programs... either at a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system" elements of amended claim 1. Therefore, it is respectfully

proposed that the rejection of claim 1 under 35 U.S.C. § 103(a) is overcome in accordance with the above amendment and remarks and notice to that effect is earnestly solicited.

Dependent claims 3-7 being dependent on and further limiting independent claim 1, should be allowable for that reason, as well as for the additional recitations that they contain. Applicants respectfully requests reconsideration of the rejection of the claims in view of the above remarks.

Independent claim 8 is amended to contain elements similar to independent claim 1 and should be allowable for at least the same reasons discussed above. Therefore, it is respectfully proposed that the rejection for obviousness is overcome.

Dependent claims 9-13 being dependent on and further limiting independent claim 8, should be allowable for that reason, as well as for the additional recitations that they contain. Applicants respectfully requests reconsideration of the rejection of the claims in view of the above remarks.

Independent claim 14 is amended to contain elements similar to independent claim 1 and should be allowable for at least the same reasons discussed above. Therefore, it is respectfully proposed that the rejection for obviousness is overcome.

Dependent claims 16-20 being dependent on and further limiting independent claim 14, should be allowable for that reason, as well as for the additional recitations that they contain.
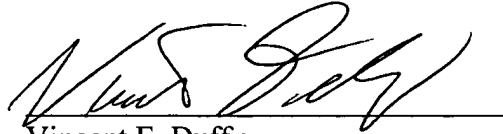
Applicants respectfully requests reconsideration of the rejection of the claims in view of the above remarks.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding remarks, this application stands in condition for allowance. Accordingly then,

reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicants' attorney at (818) 260-4599, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fees, other than those discussed above, are believed due. However, if a fee is due, please charge the additional fee to Deposit Account 07-0832.

Respectfully submitted,

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March 30, 2010

CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

3/30/2010

Date

Vincent E. Duffy